

REMARKS

Claims 1-44 are pending and stand rejected. The Specification was objected to based upon various informalities. Claim 38 was also objected to based upon an informality. Additionally, claims 25 and 30 were rejected under 35 U.S.C. §112 second paragraph as being indefinite. Claims 1-22, 24, 29, and 41-44 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,727,101 to Richmond. Claims 23, 25-28, 30-40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Richmond in view of U.S. Published Application 2004/0064287 to Fitzgibbon. The Applicant respectfully traverses the objections and rejections for the reasons described below.

The Office Action objected to the disclosure because the numeral designation for the word “moveable barrier” is “11” on page 5, paragraph 3, line 5 of the Specification when it should be “12.” The Applicant has amended the Specification accordingly.

The Office Action objected to the phrase “process 20 processes 22” at page 6, paragraph 4, line 5 of the Specification. An appropriate amendment to the Specification has been made.

The Office Action stated that the numerical designation for “process 20” on page 7, paragraph 1, line 1; page 7, paragraph 3, line 1; and page 7, paragraph 4, line 1 of the Specification was improper since this designation did not match the designation shown in the drawings. An appropriate amendment has been made to the Specification.

The Office Action also stated that the numerical designation for the word “detect 25” on page 9, paragraph 2, line 2 of the Specification did not match the drawings and should be corrected to 26. The suggested amendment has been made to the Specification.

The Office Action objected that the phrase “to now” at page 10, paragraph 4, line 4 of the Specification was unclear. An appropriate amendment has been made to the Specification.

The Office Action objected to claim 38 because the phrase “at least one of the at least one additional passpoint event” was allegedly vague and indefinite. The claim has been amended to recite “at least one additional passpoint event.”

Claims 25 and 30 were rejected under 35 U.S.C. §112 because the Examiner could not determine the meaning of these claims. These claims have been amended to clarify their meaning.

Turning now to the art based objections, the Applicant's invention utilizes a passpoint-based approach to maintain accurate positions for a moveable barrier. In one example of these approaches, a counter is used to determine the number of pulses to move the barrier from a first position to a second position. Additionally, a separate passpoint event generator generates a passpoint event. The passpoint event can, for instance, be a discrete light signal that is independent of the signals used to generate the count. The count then is correlated with the passpoint event (provided by the passpoint event generator) to correct or avoid error accrual associated with the count. See Specification, page 2, lines 14-19 and page 7, lines 18-29.

More specifically, amended claim 1 recites a movable barrier operator that includes a movable barrier movement sensor. The operator also includes a counter that is responsive to the movable barrier movement sensor and a passpoint signal generator that is responsive to movement of the movable barrier and that generates a passpoint event. The operator further includes a movable barrier position determiner that is responsive to the counter and the passpoint signal generator and which correlates a count of the counter with the passpoint event. The moveable barrier position determiner further includes a self-healing mode of operation that facilitates proper passpoint usage even when an installation sequence for the movable barrier operator has not been properly followed.

Richmond teaches a gate operator for moving a gate between two fixed positions. More specifically, a control system is described with respect to FIG. 10. A CPU 76 issues command to drive a motor 38. The CPU 76 operates in conjunction with an arithmetic control unit 82 to add and subtract counts. These counts are generated by a signal generator 84 and a counter 86. See Richmond Fig. 10, and col. 10, lines 38-57.

The Office Action stated that the control system controls the movement of the gate by using a coasting count. The Office Action also asserted that FIG. 7 of Richmond shows a passpoint event "such as a gate G moving from a fully opened position to a coasting position equivalent to a count value of 485 counts when only 15 counts were programmed into the

control unit 64.” The Office Action further stated that when the gate is short of travel, the system compensates (e.g., by adding counts).

However, a passpoint event as claimed by the Applicant is not a count of time as asserted by the Office Action. To the contrary, the passpoint event provides a fixed reference with which to correlate the count. In Richmond, the signal generator 84 generates the counts that may be adjusted but the signal generator 84 does not generate a passpoint event that is separately correlated with the counts. Put another way, the signal generator 84 of Richmond cannot both generate counts and passpoint events.

As stated above, the Fitzgibbon application was used as one reference in the rejection made under 35 U.S.C. §103(a). Fitzgibbon was published on April 1, 2004 and the present application was filed on November 25, 2003. Consequently, Fitzgibbon is not available as prior art under 35 U.S.C. §102 (b) since it was not described in a printed publication more than one year prior to the date of the present application. Similarly, Fitzgibbon is not available as prior art under 35 U.S.C. §102(e) since it is commonly owned by the same organization (The Chamberlain Group, Inc.). See 35 U.S.C. §103(c). Evidence of the common ownership is contained at Reel 015204/Frame 0316 (showing the assignment of the present application) and Reel 013360/ Frame 0962 (showing the assignment of the Fitzgibbon application). Consequently, it is submitted that the Fitzgibbon application is not available as prior art in a rejection under 35 U.S.C. §103.

Since the Richmond does teach or suggest the use of a passpoint generator or correlating a passpoint event with a count, it is submitted that claim 1 is not anticipated by Richmond. Additionally, it is submitted that the Fitzgibbon reference is not available as a prior art reference either alone or in combination with other references. Independent claims 8, 31, and 38 have recitations similar to claim 1. It is submitted that these claims are allowable for the same reasons as claim 1. The remaining claims depend directly or indirectly upon the independent claims. Since the independent claims are allowable, it is submitted that the dependent claims are also allowable.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed

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Response to Office Action

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herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135.

Respectfully submitted,

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